

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA CIVIL ACTION

LAWRENCE R. LIPMAN REVOCABLE TRUST
DATED DECEMBER 16, 2008,

Plaintiffs,

v.

LOUIS BRUNO, LLC d/b/a BRUNO AIR
CONDITIONING OF SWFL,

CASE NO.:

Defendant.

COMPLAINT

Plaintiff, LAWRENCE R. LIPMAN REVOCABLE TRUST DATED DECEMBER 16, 2008 (hereinafter referred to as "LIPMAN"), sues the Defendant, LOUIS BRUNO, LLC d/b/a BRUNO AIR CONDITIONING OF SWFL (hereinafter referred to as "BRUNO") and alleges as follows:

1. This is an action for damages in excess of \$15,000.00 and within the jurisdictional limits of the Court.
2. LIPMAN is a revocable trust with Lawrence R. Lipman as the Trustee of the trust.
3. Lawrence R. Lipman is a resident of Lee County, Florida.
4. BRUNO is a Florida limited liability company with its principal place of business located at 1714 Cape Coral Parkway E., Cape Coral, Florida 33904, Lee County, Florida and within the jurisdiction of this Court.
5. Venue is proper in this Court based upon BRUNO's principal place of business located in Lee County, Florida.

6. On or about March 28, 2013, a Promissory Note was executed by BRUNO with a principal amount of \$1,434,030.22 and delivered to LIPMAN. A true and correct copy of the Promissory Note is attached hereto as **Exhibit 1**.

7. LIPMAN owns and holds the Promissory Note.

8. A notice of acceleration of the principal balance due and owing was sent to BRUNO on December 13, 2018. A true and correct copy of the notice of acceleration is attached hereto as **Exhibit 2**.

9. The Promissory Note referenced in paragraph six (6) above came due on June 11, 2019.

10. BRUNO has failed to pay the Promissory Note when it became due.

11. BRUNO owes LIPMAN the principal balance together with interest as provided for in the Promissory Note and notice of acceleration.


12. LIPMAN is obligated to pay his attorney a reasonable fee for the handling of this matter for which BRUNO remains liable pursuant to the terms of the Promissory Note attached hereto as **Exhibit 1**.

13. All conditions precedent have been performed or occurred or such performance or occurrence has been excused or waived.

WHEREFORE, Plaintiff, LIPMAN demands from Defendant, BRUNO judgment for damages, attorneys' fees, interest and such other and further relief as the Court deems just and proper.

Dated 6-20-19

HENDERSON, FRANKLIN, STARNES & HOLT, P.A.
Attorneys for Plaintiff
Post Office Box 280
Fort Myers, Florida 33902-0280
Direct: 239.344-1260
Fax: 239-344-1570
Primary Email: douglas.szabo@henlaw.com
Secondary Email: beverly.slager@henlaw.com

By: 
Douglas B. Szabo
Florida Bar No. 710733

PROMISSORY NOTE

Principal Amount: \$1,434,030.22

Effective Date of Note: March 28, 2014

Maturity Date: March 27, 2023, or if earlier on the 180th day following a written demand by Payee for full payment of all amounts due under this Promissory Note

Annual Percentage Interest Rate ("APR"): 1.5%. This APR will vary with the market based on the one month LIBOR Rate

Installment Payment: Monthly interest only payments with the outstanding Principal Amount and Interest due thereon being payable at Maturity Date (which may be accelerated to 180 days from written demand by Payee for full payment of all amounts due under this Promissory Note)

First Installment Payment Date: April 28, 2014

The Payee: LAWRENCE R. LIPMAN,
as Trustee of The Lawrence R. Lipman
Revocable Trust, dated December 16, 2008

Address: 15800 Glenisle Way, Fort Myers, FL 33912-3923

FOR VALUE RECEIVED, the undersigned and if more than one, jointly and severally (the Maker), does hereby covenant and promise to pay to the order of the Payee, or to its successors or assigns, at its principal office, or at such other place as the Payee may designate to the maker in writing from time to time, in legal tender of the United States, the Principal Amount together with interest at the Interest Rate on the unpaid balance of the Principal Amount.

The sums due and owing hereunder shall be payable in monthly installments, in the amount as outlined in the paragraph titled "Installment Payment", the first such Installment Payment to be due on the First Installment Payment Date and subsequent Installment Payments shall be due on the same day of each month thereafter until the Maturity Date, whereupon the entire unpaid principal balance and interest accrued and unpaid thereon shall become due and payable; each such installment when paid shall be applied first to the payment of interest on the unpaid balance at the Interest Rate and the remainder thereof to payment on account of principal.

The Daily Periodic Rate and the corresponding Annual Percentage Rate are subject to change from time to time based on changes in an independent index which is the LIBOR Rate ("the Index". LIBOR shall mean that rate per annum effective on any Interest Determination Date which is equal to the quotient of (i) the rate per annum equal to the offered rate for deposits in U.S. Dollars for one (1) month period, which rate appears in *The Wall Street Journal* in its "Money Rates" listings, that displays British Bankers' Association Interest settlement rates for deposits in U.S. Dollars, as of 11:00 A.M. (London, England time) one (1) business day prior to the Interest Rate Determination Date, divided by (ii) a percentage equal to 1.00 minus the maximum reserve percentages (including



any emergency, supplemental, special, or other marginal reserves) expressed as a decimal (rounded upward to the next 1/100th of 1%) in effect on any day to which the SunTrust Bank is subject with respect to any LIBOR loan pursuant to regulations issued by the Board of Governors of the Federal Reserve System with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities" under Regulation D). This percentage shall be adjusted on and as of the effective date of any change in any reserve percentage. The Interest Determination Date shall be the first day of the month (or the next business day if the first day of the month is not a business day). In the event the LIBOR Rate or a substitute Index shall cease to be published or are substantially altered, the Payee may, at its discretion, choose another Index made readily available to and verifiable by Maker and beyond Payee's control and change the margin used as long as the historical fluctuations in the two indices were substantially similar (if the new Index has been in existence) and as long as the new Index and margin will produce a rate similar to the rate that was in effect at the time the Index became unavailable. If Payee changes the Index as described above, the substitute index will, for the purpose of this Agreement, be considered the "Index." In no event will the Annual Percentage Rate be more than the maximum rate allowed by applicable law and in no event shall Payee charge any fee not permitted by applicable law. If the Index becomes unavailable during the term of this Agreement, Payee may designate a substitute Index after notice to Maker. The Annual Percentage Rate on this Promissory Note is based upon the Index and the margin described below ("Margin").

The Daily Periodic Rate and the corresponding Annual Percentage Rate on this Promissory Note will increase or decrease as the Index increases or decreases from time to time. Payee will determine the Daily Periodic Rate and the corresponding Annual Percentage Rate as follows: Payee will start with the current Index and then apply a certain margin as disclosed below. To determine the Daily Periodic Rate that will apply to this Note, Payee will apply a margin to the value of the index, then divide the value by 365 (daily). To obtain the Annual Percentage Rate the Payee will multiply the Daily Periodic Rate by 365 (daily). This result is the Annual Percentage Rate. In no event will the corresponding Annual Percentage Rate be more than the lesser of 24.0% or the maximum rate allowed by applicable law. Adjustments to the Daily Periodic Rate and the corresponding Annual Percentage Rate resulting from changes in the Index will take effect no more than 12 times per year. As of March 28, 2014, the Index was 0.150% per annum, and therefore the initial Daily Periodic Rate and the corresponding Annual Percentage Rate on this Promissory Note are as stated below:

Current Rates for the First Payment Stream

Range of Balance or Condition	Margin Applied to Index	ANNUAL PERCENTAGE RATE	Daily Periodic Rate
All Balances	+1.350%	1.5000%	0.00411%

Notwithstanding the foregoing, the applicable Daily Periodic Rate and the corresponding Annual Percentage Rate for the first and / or subsequent billing cycles may differ from the disclosure immediately above, due to the following: a) The Index rate may change from the rate disclosed above, which will then change the Daily Periodic Rate and corresponding Annual Percentage Rate accordingly; and / or b) in the event the Annual Percentage Rate disclosed immediately above and / or for any other applicable billing cycle exceeds the maximum rate allowed pursuant to this Promissory Note, then for each such billing cycle the Daily Periodic Rate and corresponding Annual Percentage Rate will be capped at such maximum allowable rate, that being a Daily Periodic Rate of 0.06575% and a corresponding Annual Percentage Rate of 24.000%.

If any amount hereunder shall not be paid within ten (10) days of the due date, then the entire principal sum and accrued interest hereunder shall become due and payable at once or thereafter, at the option of the Payee of this Note. The Payee may, at its option, collect a late charge equal to five percent (5.0%) of any such amount due to reimburse the Payee for expenses of servicing delinquent payments. In addition, Payee may charge various additional fees for servicing or processing the loan. The name of the fee shall describe the work performed. Failure to exercise these options shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

In addition, the occurrence of any of the following shall be a default hereunder: (a) a breach by the Maker of a representation, warranty, or covenant contained herein, or in any other instrument or document executed and delivered in connection with this transaction; (b) a default by the Maker in the performance or observance of a provision of any lease, contract, agreement, mortgage, promissory note, instrument, or other obligation or commitment to which it is a party or in respect of which it is otherwise liable; (c) failure to provide updated financial information as required in any loan agreement executed as part of this transaction; (d) the Maker or any Guarantor shall (1) apply for or consent to the appointment of a receiver, trustee, or liquidator of itself or of all or of a substantial part of its assets, (2) be unable or admit in writing its inability to pay its debts as they mature, (3) make a general assignment for the benefit of creditors, (4) be adjudicated as bankrupt or insolvent, or (5) file a voluntary petition in bankruptcy or an answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law or an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency for the purpose of effecting any of the foregoing; (e) entry of an order, judgment or decree, with or without the application, approval or consent of the Maker, by any Court of competent jurisdiction, approving a petition seeking reorganization of the Maker or appointing a receiver, trustee or liquidator of the Maker or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days; (f) indebtedness of the Maker on any obligation now or hereafter incurred or outstanding shall become due and payable by its terms and shall not be paid, renewed, or extended within the grace period allowed by any agreement relative to such indebtedness, or any default or event of default shall occur in respect of any such indebtedness and shall continue for a period of time sufficient to cause or permit the acceleration of maturity thereof; (g) the rendition of one or more final judgments against the Maker for the payment of damages or money in excess of Fifty Thousand Dollars (\$50,000.00), in the aggregate, if the same are not discharged or the issuance of writs of execution or of similar process with respect thereto are not stayed within the time allowed by law for filing notice of appeal of final judgment; (h) the issuance of one or more writs of execution, garnishment, levy, attachment, distraint, or similar process against the Maker (whether or not pursuant to a final judgment) in connection with a claim for the payment of damages or money in excess of Fifty Thousand Dollars (\$50,000.00), in the aggregate, if the writs are not vacated or stayed within five (5) days after the making thereof; (i) the violation of any law, or any act or omission, by the Maker that results in the imposition against any property of Maker, real or personal, of one or more liens by operation of law, if the liens are not discharged within ten (10) days after they have attached and if the liens relate to a claim for the payment of damages or money in excess of Fifty Thousand Dollars (\$50,000.00), in the aggregate; (j) threatened or actual filing of a criminal proceeding or investigation against the Maker.

It is further agreed that the maker and each endorser, surety, guarantor, jointly and severally, shall pay all costs, of collection of this Note, including a reasonable attorney's fee, including all costs, expenses and reasonable attorney's fees for any retrial, rehearing or appeals, on failure to pay any Installment Payment or any other sums due hereunder on the due date thereof. This Note and all sums due hereunder shall bear interest at the highest lawful rate of interest per annum permitted in the State of Florida from the date of default after the applicable grace period. Notwithstanding any term, condition, obligation or provision herein to the contrary, it is the expressed intent of the Payee that no interest, consideration or charge in excess of that permitted in the State of Florida may be

accrued, charged or taken or become payable hereunder. In the event, it is hereafter determined that the Payee of this Note has taken, charged or reserved interest in excess of that permitted, whether due to prepayment, acceleration, or otherwise, such excess shall be refunded to the Maker or credited against the sums due the Payee hereunder.

The unpaid balance of the Principal Amount, plus accrued interest shall become due and payable at the option of the Payee under the happening of an event by which said balance shall or may become due and payable as set forth herein.

This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, or discharge is sought.

All parties to this Note, whether Maker, principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, protest, notice of protest, and notice of dishonor, and expressly agree jointly and severally to remain and continue bound for the payment of the principal and interest provided for by the terms of this Note, notwithstanding any extension or extensions of the time of, or for the payment of said principal or interest, or any change or changes in the amount or amounts agreed to be paid under or by virtue of the obligation to pay provided for in this Note, or any change or changes by way of release or surrender or substitution of any real property and collateral, or either, held as security for this Note, and waive all and every kind of notice of such extensions, change or changes, and agree that the same may be made without the joinder of the Maker.

IN RECOGNITION OF THE HIGHER COSTS AND DELAY WHICH MAY RESULT FROM A JURY TRIAL, THE PARTIES HERETO WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION EITHER ARISING HEREUNDER OR UNDER ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT HERETO OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY TRIAL WITHOUT A JURY AND THAT ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THE RIGHT TO TRIAL BY JURY.

[THE BALANCE OF THIS PAGE IS BLANK, THE NEXT PAGE IS THE SIGNATURE PAGE.]

IF IT IS DETERMINED THAT ANY DOCUMENTARY STAMP TAXES OR OTHER SUCH
EXCISE TAX IS DUE UPON THE EXECUTION OF THIS NOTE, SUCH AMOUNT SHALL BE PAID
BY MAKER.

Florida Documentary Stamp Tax Required
by Law in the amount of \$ 2,450.00
has been paid or will be paid directly
to the Department of Revenue.
Certificate of Registration
591237100-46-001

Louis Bruno, LLC d/b/a Bruno Air
Conditioning of SWFL

By: 

LOUIS BRUNO, Manager
28731 South Cargo Court
Bonita Springs, FL 34135



Henderson|Franklin
ATTORNEYS AT LAW

1715 Monroe Street * Fort Myers, FL 33901
Post Office Box 280 * Fort Myers, FL 33902
Tel: 239.344.1100 * Fax: 239.344.1200 * www.henlaw.com
Bonita Springs * Naples * Sanibel

Reply to
Guy E. Whitesman
Board Certified Tax Lawyer
Direct Fax Number 239.344.1565
Direct Dial Number 239.344.1180
E-Mail: guy.whitesman@henlaw.com

December 13, 2018

Via Email to: louis@brunoair.com and
U.S. Certified Mail Return Receipt Requested

Louis J. Bruno, IV, Manager
Louis Bruno, LLC d/b/a
Bruno Air Conditioning of SWFL
28731 South Cargo Court
Bonita Springs, FL 34135

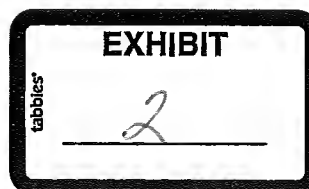
Re: Demand for Payment of Promissory Note ("Note") dated March 28, 2014 in the principal amount of \$1,434,030.22, Maker, Louis Bruno, LLC and Payee Lawrence R. Lipman, Trustee of the Lawrence R. Lipman Revocable Trust dated December 16, 2008 ("Trust")

Dear Louis:

As you are aware, Henderson Franklin represents Lawrence A. Lipman ("Larry") as trustee of the above referenced Trust (Payee). This letter will serve as a demand for payment of:

- (i) the entire principal amount of \$1,434,030.22;
 - (ii) the amount of the Florida documentary stamp taxes paid on the Note, \$2,450.00, which the Trust advanced on behalf of the Maker; and,
 - (iii) all accrued interest owed under the above referenced Note,
- within 180 days of the date hereof (due date, June 11, 2019).

A copy of the Note is enclosed with this letter for your information. Please send payment via the following wire transfer instructions:



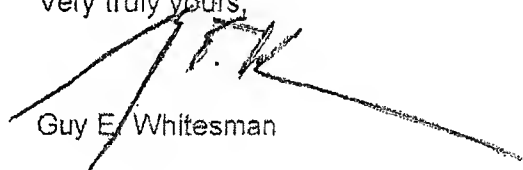
Louis J. Bruno, IV, Manager
Louis Bruno, LLC d/b/a
Bruno Air Conditioning of SWFL
December 13, 2018
Page 2

SunTrust Bank
2000 Main Street
Fort Myers, FL 33901
ABA No. 061000104
SWIFT SNTRUS3A
Trust account number: [REDACTED]
Account Name: Henderson, Franklin, Stames & Holt, P.A. Trust Account
Attention of attorney: Guy E. Whitesman
Henderson Franklin Matter: 10130/68 Larry Lipman

Larry as Trustee of the Trust has countersigned this letter to acknowledge that the Trust is making this demand through our firm.

We look forward to your prompt and full cooperation.

Very truly yours,


Guy E. Whitesman

GEW/dac

Enclosure: Copy of Promissory Note for \$1,434,030.22

cc: Lawrence R. Lipman, Trustee

Robert Burandt, Esq. via email robert@capecoralattorney.com

Lawrence R. Lipman Revocable Trust Dated
December 16, 2008

By: 

Larry Lipman, Trustee